

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff(s),)
)
vs.) Case No. 4:14CR00153 ERW
)
JAMES STALEY,)
)
Defendant(s).)

ORDER

This matter comes before the Court on Defendant James Staley's Notice of Constitutional Challenge to Statute and Motion to Intervene [ECF No. 119].

The Court's understanding of Defendant James Staley's ("Defendant") Notice is he requests to rescind his guilty plea, challenges the constitutionality of various criminal statutes and the sentencing guidelines, and asserts his constitutional rights were violated. Defendant also requests a trial be set for November 16, 2015, to address the constitutionality of these statutes. Defendant challenges these statutes pursuant to Federal Rules of Civil Procedure ("FRCP") 5.1 and 24.

First, it appears, in challenging the constitutionality of various criminal statutes, Defendant is arguing the Court does not have jurisdiction over him because he is claiming to be a sovereign citizen. This argument has been routinely rejected by courts as meritless. *See United States v. Hardin*, 489 Fed. Appx. 984, 986 (8th Cir. 2012) (citing *United States v. Schneider*, 910 F.2d 1569, 1570 (7th Cir. 1990), *United States v. Hart*, 701 F.2d 749, 750 (8th Cir. 1983)). The specific grounds for Defendant's motion are also meritless. The FRCP do not apply to criminal cases. *See* Fed. R. Civ. P. 1. Additionally, FRCP 5.1 does not apply against the United States and Defendant cannot intervene in a case in which he is already a party under FRCP 24.

Further, Defendant cannot rescind his guilty plea. Federal Rule of Criminal Procedure 11(e) states "[a]fter the court imposes sentence, the defendant may not withdraw a plea of guilty . .

. and the plea may be set aside only on direct appeal or collateral attack.” If Defendant intended this to be a notice of appeal, it is past the fourteen days allowed to file an appeal. *See* Fed. R. App. P. 4(b)(1)(A)(i). Additionally, Defendant waived his rights to appeal when he pled guilty. *See* ECF No. 80, pg. 10.

Accordingly,

IT IS HEREBY ORDERED that Defendant James Staley’s Notice of Constitutional Challenge to Statute and Motion to Intervene [ECF No. 119] is **DENIED**.

So Ordered this 6th day of November, 2015.



E. RICHARD WEBBER
SENIOR UNITED STATES DISTRICT JUDGE